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REMARKS/ARGUMENTS**Status of Claims**

Claims 1-12 were pending in the application as filed, among which claims 8-12 have been withdrawn from consideration as being directed to non-elected subject matter and claims 1-7 have been examined.

Claims 1-7 are rejected or objected to in the present Office Action.

Claims 1, 2, 5, and 6 have been amended, and claims 7-12 have been cancelled, by this amendment.

Rejection to Claims 1-4 under 35 U.S.C. §112

Claims 1- 4 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The basis of rejection of claims 1 and 2 is that, on one ring B group in claim 1 and two ring B groups in claim 2, the R⁴ on the pyridine would lead to a charge. Claims 1 and 2 have been amended by this amendment whereby the ring B groups in question in each claim have been deleted; therefore, the rejection on this basis is overcome.

Claim 2 is also rejected for reason that the substituent R in formulae 2, 4, 6, 8, 9, 12, and 13 has no antecedent basis in the base claim 1. This defect resulted from a clerical error. Claim 2 has been amended to cancel formula 12, as well as formulae 11, 14, and 15, and to change R to R¹⁰ in remaining formulae in question, which the Applicant believes overcomes the rejection on this basis. The amendment to change R to R¹⁰ does not add new matter because the definitions of R and R¹⁰ are identical as disclosed in the application.

Claims 3 and 4 depend from base claims 1 or 2. Because the rejection to claims 1 and 2 is overcome by the amendment as explained above, the rejection to claims 3 and 4 on the same basis is overcome as well.

In addition, the Examiner has recommended deletion of the word "suitable" from the phrase "suitable substituents" in claim 1. Applicant has amended claim 1 accordance with the Examiner's recommendation.

Rejection to Claims 1, 2, and 4 under 35 U.S.C. §102(b)

Claims 1, 2, and 4 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the following references:

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Lee et al. Journal of Heterocyclic Chemistry (2000), 37: 363-372 (compounds 5a and 5c in the reference);

Giles et al. European Journal of Medicinal Chemistry (1980), 5(6):499-502 (compound 2e in the reference);

Shen et al. U.S. Patent No. 4,038,396 (compounds of Examples 167, 171, 173, 176-182, 184-188 in the reference);

Morimoto et al. U.S. Patent No. 5,284,661 (compound of Example 9 in the reference);

Elliott et al. U.S. Patent No. 6,001,949 (compound of Example 27 in the reference);

Suzuki et al. US Patent No. 5,977,132 (compound identified in the Office Action); and

Kramberger et al. journal of Heterocyclic Chemistry (1975), 12:337-342 (compound identified in the Office Action).

The definition of substituent A in claim 1 has been amended to encompass -NR(C=O) and -(CO)NR only. This structural feature is not possessed by any of the reference compounds. For this difference alone, claim 1 as amended is not anticipated by the cited references. Claims 2 and 4 depend directly or indirectly from claim 1. Because claim 1 as amended is not anticipated, claims 2 and 4, which include all the limitations of claim 1, are not anticipated either.

Rejection to Claims 1 - 4 under 35 U.S.C. §102(e)

Claims 1-4 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bunker (U.S. Patent Application No. 2003/0144274).

U.S. Patent Application No. 2003/0144274 discloses compounds that are alkynes. These compounds all possess a characteristic carbon-carbon triple bond at the position equivalent to substituent A in formula (I) of the present application. In comparison, compounds recited in claim 1 as amended in the present application do not possess such feature at that position. For this reason alone, claim 1 as

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amended is not anticipated by U.S. Patent Application No. 2003/0144274. Claims 2 - 4 depend directly or indirectly from claim 1. Because claim 1 as amended is not anticipated, claims 2 - 4, which include all the limitations of claim 1, are not anticipated either.

Double Patenting Rejection to Claims 1-4 and 7

Claims 1-4 and 7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18-20 of co-pending U.S. Patent Application No. 10/264764. The Examiner alleges that the compounds of the copending claims are encompassed by the instant claims.

Compounds recited in claims 18-20 of U.S. Patent Application No. 10/264764 all have a carbon-carbon triple bond at the position equivalent to substituent A in formula (I) of the present application. This carbon-carbon triple bond is part of the core structure and, thus, is possessed by all compounds recited in claims 18-20 of U.S. Patent Application No. 10/264764. In comparison, substituent A in formula (I) in claim 1, as amended, of the present application does not encompass the carbon-carbon triple bond; rather, substituent A is limited to either -NR(C=O) or - (C=O)NR. Accordingly, Applicant believes that compounds recited in claims 18-20 of U.S. Patent Application No. 10/264764 are not encompassed by the instant claims and, as such, the rejection to claim 1 on this basis is overcome. Claims 2-4 depend directly or indirectly from claim 1. Because the referenced compounds are not encompassed by claim 1 as amended, they are not encompassed by claims 2-4 either. Accordingly, Applicant believes the rejection to claims 2-4 is overcome as well. Claim 7 has been cancelled, which renders the rejection to claim 7 moot.

Claim Objections

Claims 1-4, 6, and 7 are objected to for containing non-elected subject matter. Applicant has cancelled claims 7 in its entirety and deleted the non-elected subject matter in

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claims 1-4 and 6. Accordingly, the objection to these claims on this ground is overcome.

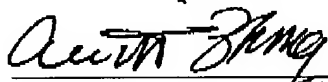
Claim 5 is objected to for being dependent on the rejected base claim 1. Because Applicant believes that the rejections and objection to claim 1 have been overcome as explained above and, as such, claim 1 is now allowable, the objection to claim 5 on this basis is overcome.

Concluding Remarks

In view of the above amendments and remarks, Applicant respectfully request reconsideration of the application, withdrawal of the rejections and objections to the claims, and timely issuance of Notice of Allowance.

Respectfully submitted,

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Austin W. Zhang
Registration No. 48,061
Warner-Lambert Company LLC
2800 Plymouth Road
Ann Arbor, MI 48105
Telephone: (734) 622-5035
Facsimile: (734) 622-1553